



General Assembly

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Amendment

LCO No. 3830

HB0564703830HRO

Offered by:

REP. HARKINS, 120th Dist.

REP. D'AMELIO, 71st Dist.

REP. OREFICE, 37th Dist.

To: Subst. House Bill No. 5647

File No. 536

Cal. No. 374

**"AN ACT CONCERNING THE URBAN AND INDUSTRIAL SITE
REINVESTMENT PROGRAM."**

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- 1 In line 313, insert an opening bracket before "(i)"
 - 2 In line 331, insert a closing bracket after the period
 - 3 After line 331, insert the following:
 - 4 "(i) (1) There shall be allowed as a credit against the tax imposed
 - 5 under chapters 207 to 212a, inclusive, or section 38a-743, or a
 - 6 combination of said taxes, an amount equal to twenty-five per cent of
 - 7 the approved investments made by or on behalf of a taxpayer with
 - 8 respect to the income year in which the investment in the eligible
 - 9 project was made and the three next succeeding income years. The
 - 10 sum of all tax credits granted pursuant to the provisions of this section
 - 11 shall not exceed one hundred million dollars with respect to a single
 - 12 eligible urban reinvestment project or a single eligible industrial site

13 investment project approved by the commissioner. The sum of all tax
14 credits granted pursuant to the provisions of this section shall not
15 exceed five hundred million dollars."

16 After the last section, add the following and renumber sections and
17 internal references accordingly:

18 "Sec. 501. Section 38a-88a of the general statutes is repealed and the
19 following is substituted in lieu thereof (*Effective from passage*):

20 (a) As used in this section:

21 (1) "Facility" means an insurance business facility;

22 (2) "Insurance business" means a business engaged in the business
23 of insuring risks; [or of providing services necessary to the business of
24 insuring risks;]

25 (3) "New job" means a job that did not exist in the business of a
26 subject insurance business in this state prior to the subject insurance
27 business's application to the commissioner for an eligibility certificate
28 under this section for a new facility and that is filled by a new
29 employee, but does not include a job created when an employee is
30 shifted from an existing location of the subject insurance business in
31 this state to a new facility;

32 (4) "New employee" means a person hired by a subject insurance
33 business to fill a position for a new job or a person shifted from an
34 existing location of the subject insurance business outside this state to a
35 new facility in this state, provided (A) in no case shall the total number
36 of new employees allowed for purposes of this credit exceed the total
37 increase in the taxpayer's employment in this state, which increase
38 shall be the difference between (i) the number of employees employed
39 by the subject insurance business in this state at the time of application
40 for an eligibility certificate to the commissioner plus the number of
41 new employees who would be eligible for inclusion under the credit
42 allowed under this section without regard to this calculation, and (ii)

43 the highest number of employees employed by the subject insurance
44 business in this state in the year preceding the subject insurance
45 business's application for an eligibility certificate to the commissioner,
46 and (B) a person shall be deemed to be a "new employee" only if such
47 person's duties in connection with the operation of the facility are on a
48 regular, full-time, or equivalent thereof, and permanent basis;

49 (5) "New facility" means a facility which (A) is acquired by, leased
50 to, or constructed by, a subject insurance business on or after the date
51 of the subject insurance business's application to the commissioner for
52 an eligibility certificate under this section, unless, upon application of
53 the subject insurance business and upon good and sufficient cause
54 shown, the commissioner waives the requirement that such activity
55 take place after the application, and (B) was not in service or use
56 during the one-year period immediately prior to the date of the subject
57 insurance business's application to said commissioner for an eligibility
58 certificate under this section, unless upon application of the subject
59 insurance business and upon good and sufficient cause shown, the
60 commissioner consents to waiving the one-year period;

61 (6) "Related person" means (A) a corporation, limited liability
62 company, partnership, association or trust controlled by the taxpayer
63 or subject insurance business, as the case may be, (B) an individual,
64 corporation, limited liability company, partnership, association or trust
65 that is in control of the taxpayer or subject insurance business, as the
66 case may be, (C) a corporation, limited liability company, partnership,
67 association or trust controlled by an individual, corporation, limited
68 liability company, partnership, association or trust that is in control of
69 the taxpayer or subject insurance business, as the case may be, or (D) a
70 member of the same controlled group as the taxpayer or subject
71 insurance business, as the case may be. For purposes of this section,
72 "control", with respect to a corporation, means ownership, directly or
73 indirectly, of stock possessing fifty per cent or more of the total
74 combined voting power of all classes of the stock of such corporation
75 entitled to vote. "Control", with respect to a trust, means ownership,
76 directly or indirectly, of fifty per cent or more of the beneficial interest

77 in the principal or income of such trust. The ownership of stock in a
78 corporation, of a capital or profits interest in a partnership or
79 association or of a beneficial interest in a trust shall be determined in
80 accordance with the rules for constructive ownership of stock
81 provided in Section 267(c) of the Internal Revenue Code of 1986, or any
82 subsequent corresponding internal revenue code of the United States,
83 as from time to time amended, other than paragraph (3) of such
84 section;

85 (7) "Moneys of the taxpayer" means all amounts invested in a fund,
86 directly or indirectly, on behalf of a taxpayer, including but not limited
87 to (A) direct investments made by the taxpayer, and (B) loans made to
88 the fund for the benefit of the taxpayer which loans are guaranteed by
89 the taxpayer, provided no amounts represented by any such loan shall
90 be used for the purpose of obtaining any tax credit by any person
91 making such loan against any tax levied by this state;

92 (8) "Income year" means (A) with respect to corporations subject to
93 taxation under chapter 208, the income year as determined under said
94 chapter, (B) with respect to insurance companies, hospital and medical
95 services corporations subject to taxation under chapter 207, the income
96 year as determined under said chapter, and (C) with respect to
97 taxpayers subject to taxation under chapter 229, the taxable year
98 determined under said chapter;

99 (9) "Taxpayer" means any person as defined in section 12-1, whether
100 or not subject to any taxes levied by this state; [and]

101 (10) "Commissioner" means the Commissioner of Economic and
102 Community Development; and

103 (11) "Investment" means an equity investment by a fund manager in
104 an insurance business.

105 (b) On or before July 1, 2000, the commissioner shall register
106 managers of funds created for the purpose of investing in insurance
107 businesses. Any manager registered under this subsection shall have

108 its primary place of business in this state. Each applicant shall submit
109 an application under oath to the commissioner to be registered and
110 shall furnish evidence satisfactory to the commissioner of its financial
111 responsibility, integrity, and professional competence to manage
112 investments. Failure to maintain adequate fiduciary standards shall
113 constitute cause for the commissioner to revoke, after hearing, any
114 registration granted under this section. The fund manager shall make a
115 report on or before the first day of March in each year, under oath, to
116 the [Commissioner of Revenue Services] Commissioners of Revenue
117 Services and Economic and Community Development specifying the
118 name, address and Social Security number or employer identification
119 number of each investor, the year during which each investment was
120 made by each investor, the amount of each investment and a
121 description of the fund's investment objectives and relative
122 performance.

123 (c) There shall be allowed as a credit against the tax imposed under
124 chapter 207, 208 or 229 or section 38a-743 an amount equal to the
125 following percentage of the moneys of the taxpayer invested through a
126 fund manager in an insurance business with respect to the following
127 income years of the taxpayer: (1) With respect to the income year in
128 which the investment in the subject insurance business was made and
129 the two next succeeding income years, zero per cent; (2) with respect to
130 the third full income year succeeding the year in which the investment
131 in the subject insurance business was made and the three next
132 succeeding income years, ten per cent; (3) with respect to the seventh
133 full income year succeeding the year in which the investment in the
134 subject insurance business was made and the two next succeeding
135 income years, twenty per cent. The sum of all tax credit granted
136 pursuant to the provisions of this section shall not exceed [fifteen] ten
137 million dollars with respect to all equity investments made by a fund
138 or funds in any single insurance business, and with respect to all
139 equity investments made by a fund shall not exceed the total amount
140 originally invested in such fund. Any fund manager may apply to the
141 Commissioner of Economic and Community Development for a credit

142 that exceeds the limitations established by this subsection. The
143 commissioner shall evaluate the benefits of such application and make
144 recommendations to the General Assembly if he determines that the
145 proposal would be of economic benefit to the state.

146 (d) The credit allowed by this section may be claimed only by a
147 taxpayer who has invested in an insurance business through a fund (1)
148 which has a total asset value of not less than thirty million dollars for
149 the income year for which the initial credit is taken; (2) has not less
150 than three investors who are not related persons with respect to each
151 other or to any insurance business in which any investment is made
152 other than through the fund at the date the investment is made and (3)
153 which invests only in insurance businesses that are not related persons
154 with respect to each other.

155 (e) The credit allowed by this section may be claimed only with
156 respect to a subject insurance business which (1) occupies the new
157 facility for which an eligibility certificate has been issued by the
158 commissioner and with respect to which the certification required
159 under subsection (g) of this section has been issued as its home office,
160 and (2) employs not less than twenty-five per cent of its total work
161 force in new jobs.

162 (f) The credit allowed by this section may be claimed only with
163 respect to an income year for which a certification of continued
164 eligibility required under subsection (g) of this section has been issued.
165 If, with respect to any year for which a tax credit is claimed, any
166 subject insurance business ceases at any time to employ at least
167 twenty-five per cent of its total work force in new jobs, then, except as
168 provided in subsection (g) of this section, the entitlement to the credit
169 allowed by this section shall not be allowed for the taxable year in
170 which such employment ceases, and there shall not be a pro rata
171 application of the credit to such taxable year; provided, if the reason
172 for such cessation is the dissolution, liquidation or reorganization of
173 such insurance business in a bankruptcy or delinquency proceeding, as
174 defined in section 38a-905, as amended, the credit shall only be

175 allowed until such proceeding has concluded.

176 (g) The commissioner, upon application, [shall] may issue an
177 eligibility certificate for an insurance business occupying a new facility
178 in this state and employing new employees, after it has been
179 established, to his satisfaction, that subject insurance business has
180 complied with the provisions of this section. If the commissioner
181 determines that such requirements have been met as a result of
182 transactions with a related person for other than bona fide business
183 purposes, he shall deny such application. The commissioner shall
184 require the subject insurance business to submit annually such
185 information as may be necessary to determine whether the appropriate
186 occupancy and employment requirements have been met at all times
187 during an income year, which may include, but not be limited to,
188 evidence of equity investment. If the commissioner determines that
189 such requirements have been so met, he shall issue a certification of
190 continued eligibility to that effect to the subject insurance business on
191 or before the first day of the third month following the close of the
192 subject insurance business's income year.

193 (h) Each taxpayer claiming the credit allowed under this section
194 shall submit to the Commissioner of Revenue Services a copy of the
195 eligibility certificate and the certification required under subsection (g)
196 of this section with its tax return for each taxable year for which a
197 credit is claimed.

198 (i) (1) If (A) the number of new employees on account of which a
199 taxpayer claimed the credit allowed by this section decreases to less
200 than twenty-five per cent of its total work force for more than sixty
201 days during any of the taxable years for which a credit is claimed, (B)
202 those employees are not replaced by other employees who have not
203 been shifted from an existing location of the subject insurance business
204 in this state, and (C) the subject insurance business has relocated
205 operations conducted in the new facility to a location outside this state,
206 the taxpayer shall be required to recapture a percentage, as determined
207 under the provisions of subdivision (2) of this subsection, of the credit

208 allowed under this section on its tax return and no subsequent credit
209 shall be allowed. If the credit claimed by the taxpayer under this
210 section is attributable to investments made in more than one insurance
211 business, the credit recaptured and disallowed under this subsection
212 shall be that portion of the credit attributable to the investment in the
213 insurance business as described in subparagraphs (A) to (C), inclusive,
214 of subdivision (1) of this subsection. (2) If the taxpayer is required
215 under the provisions of subdivision (1) of this subsection to recapture a
216 portion of the credit during (A) the first year such credit was claimed,
217 then ninety per cent of the credit allowed shall be recaptured on the
218 tax return required to be filed for such year, (B) the second of such
219 years, then sixty-five per cent of the credit allowed for the entire period
220 of eligibility shall be recaptured on the tax return required to be filed
221 for such year, (C) the third of such years, then fifty per cent of the
222 credit allowed for the entire period of eligibility shall be recaptured on
223 the tax return required to be filed for such year, (D) the fourth of such
224 years, then thirty per cent of the credit allowed for the entire period of
225 eligibility shall be recaptured on the tax return required to be filed for
226 such year, (E) the fifth of such years, then twenty per cent of the credit
227 allowed for the entire period of eligibility shall be recaptured on the
228 tax return required to be filed for such year, and (F) the sixth or
229 subsequent of such years, then ten per cent of the credit allowed for
230 the entire period of eligibility shall be recaptured on the tax return
231 required to be filed for such year. Any credit recaptured pursuant to
232 this subsection shall not be in excess of the credit that would be
233 allowed for the applicable investment. The Commissioner of Revenue
234 Services may recapture such credits from the taxpayer who has
235 claimed such credits. If the commissioner is unable to recapture all or
236 part of such credits from such taxpayer, the commissioner may seek to
237 recapture such credits from any taxpayer who has assigned such
238 credits to another taxpayer. If the commissioner is unable to recapture
239 all or part of such credits from any such taxpayer, the commissioner
240 may recapture such credits from the fund. (3) The recapture provisions
241 of this subsection shall not apply and tax credits may continue to be
242 claimed under this section if, for the entire period that the credit is

243 applicable, such decrease in the percentage of total work force
244 employed in this state does not result in an actual decrease in the
245 number of persons employed by the subject insurance business in this
246 state on a regular, full-time, or equivalent thereof, and permanent basis
247 as compared to the number of new employees on account of which the
248 taxpayer claimed the credit allowed by this section.

249 (j) The tax credit allowed by this section shall only be available for
250 investments in funds that are not open to additional investments or
251 investors beyond the amount subscribed at the formation of the fund.
252 No credits shall be allowed under this section for investments in any
253 fund created on or after July 1, 2000. No credit shall be allowed under
254 this section for investments made in an insurance business through
255 such fund after December 31, 2015.

256 (k) (1) The Commissioner of Revenue Services may treat one or
257 more corporations that are properly included in a combined
258 corporation business tax return under section 12-223 as one taxpayer in
259 determining whether the appropriate requirements under this section
260 are met. Where corporations are treated as one taxpayer for purposes
261 of this subsection, then the credit shall be allowed only against the
262 amount of the combined tax for all corporations properly included in a
263 combined return that, under the provisions of subdivision (2) of this
264 subsection, is attributable to the corporations treated as one taxpayer.
265 (2) The amount of the combined tax for all corporations properly
266 included in a combined corporation business tax return that is
267 attributable to the corporations that are treated as one taxpayer under
268 the provisions of this subsection shall be in the same ratio to such
269 combined tax that the net income apportioned to this state of each
270 corporation treated as one taxpayer bears to the net income
271 apportioned to this state, in the aggregate, of all corporations included
272 in such combined return. Solely for the purpose of computing such
273 ratio, any net loss apportioned to this state by a corporation treated as
274 one taxpayer or by a corporation included in such combined return
275 shall be disregarded.

276 (l) Any taxpayer allowed a credit under this section may assign such
277 credit to another person, provided such person may claim such credit
278 only with respect to a calendar year for which the assigning taxpayer
279 would have been eligible to claim such credit. The fund manager shall
280 include in the report filed with the Commissioner of Revenue Services
281 in accordance with subsection (b) of this section information requested
282 by the commissioner regarding such assignments including the current
283 holders of credits as of the end of the preceding calendar year.

284 (m) No taxpayer shall be eligible for a credit under this section and
285 either section 12-217e or section 12-217m for the same investment. No
286 two taxpayers shall be eligible for any tax credit with respect to the
287 same investment, employee or facility.

288 (n) Any tax credit not used in the income year for which it was
289 allowed may be carried forward for the five immediately succeeding
290 income years until the full credit has been allowed.

291 (o) The commissioner, with the approval of the Commissioner of
292 Revenue Services and the Secretary of the Office of Policy and
293 Management, may adopt regulations in accordance with chapter 54 to
294 carry out the purposes of this section.

295 (p) The sum of all tax credits granted annually pursuant to the
296 provisions of this section shall not exceed fifty million dollars. The sum
297 of all tax credits granted by the Commissioner of Revenue Services
298 pursuant to the provisions of this section over the life of the program
299 shall not exceed two hundred fifty million dollars."